

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, AUGUST 8, 2006

The Council of the City of San José convened in regular session at 9:30 a.m. in the Mayor's Conference Room T1841, at City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:31 a.m. to a Closed Session in Room T1841, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) County of Santa Clara et al. v. City of San José, et al. (2) San José Silicon Valley Chamber of Commerce Political Action Committee, et al. v. City of San José. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (c) with respect to initiation of litigation in two (2) matters. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza, and the following Employee Organizations: (1) International Association of Firefighters; (2) Operating Engineers, Local 3.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:30 a.m. and reconvened at 1:33 p.m. in the Council Chambers.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

INVOCATION

Saint Maria Goretti Church. (District 7)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Mayor Gonzales noted that the meeting would be adjourned in memory of former City Clerk Patricia L. O'Hearn who faithfully served the City for 18 years. Council Member LeZotte provided personal expressions of tribute and mourning.

Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation recognizing the City of San José Health, Safety, and Workers' Compensation Team for their achievement in diligently working to reduce injuries to employees and costs to the City. (Human Resources)**

Action: Mayor Gonzales, City Manager Les White and Director Employee Services Mark Danaj recognized and commended the City of San José Health, Safety and Workers' Compensation Team for their success.

- 1.2 Presentation of a commendation to Los Lagos Golf Course for their innovative vision, environmental design and operations, customer service and achievements that earned recognition as the overall 2005 Environmental Leader in Golf award by Golf Digest and Golf Course Superintendents Association of America. (Nguyen)**

Action: Mayor Gonzales and Council Member Nguyen recognized and commended Los Lagos Golf Course for their achievements.

- 1.3 Presentation of Energy Efficiency Program Rebate check from PG&E to the City of San José for energy saving programs at the Water Pollution Control Plant. (LeZotte/ Environmental Services)
(Rules-in-Lieu referral 7/26/06)**

Action: Deferred to 9/12/06.

- 1.4 Presentation of a proclamation declaring the week of August 6 - 12, 2006 as "National Farmers' Market Week" in San José. (Campos)
(Rules Committee referral 8/2/06)**

Action: Mayor Gonzales and Council Member Campos declared the week of August 6-12, 2006 as "National Farmers' Market Week" in the City of San José.

CONSENT CALENDAR

Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

2.1 Approval of Minutes:

- (a) **Regular Minutes of November 1, 2005.**
 - (b) **Regular Minutes of November 8, 2005.**
 - (c) **Regular Minutes of November 15, 2005.**
 - (d) **San José Financing Authority Minutes of November 15, 2005.**
 - (e) **Regular Minutes of November 29, 2005.**
- (Deferred from 6/27/06 – Item 2.1)**

Action: Deferred to August 15, 2006.

2.2 (a) **ORD. NO. 27795 – Rezoning certain real property situated in an area generally bounded by Monterey Highway to the northeast, State Route 85 to the south and Manassas Road to the northwest to A(PD) Planned Development Zoning District. PDC04-100**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on July 18, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27795](#) was adopted. (11-0.)

(b) **ORD. NO. 27796 – Rezoning certain real property situated on the southeast corner of Miller Street and Asbury Street to A(PD) Planned Development Zoning District. PDC05-101**

Public Comment: Nina and Marc Boyd spoke in opposition.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Cortese and carried unanimously, Item 2.2(b) was deferred to August 15, 2006. (11-0.)

(c) **ORD. NO. 27814 – Amending Section 4.68.080 of Chapter 4.68 of Title 4 of the San José Municipal Code to clarify that the City's application of the telephone user's tax to intrastate telephone communication services has been and will continue to be consistent with the Internal Revenue Service's interpretation of the Federal Excise Tax prior to May 25, 2006.**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on July 18, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27814](#) was adopted. (11-0.)

- 2.3 Acceptance of the finding reports from Kafoury, Armstrong & Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer, quarter ending March 31, 2006. (City Auditor)
(Rules-in-Lieu referral 7/26/06)**

Documents Filed: Memorandum from City Auditor Gerald Silva, dated July 12, 2006, transmitting the reports.

Action: The reports were accepted. (11-0.)

- 2.4 (a) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
- (1) Increase the estimate for Beginning Fund Balance by \$381,126.**
 - (2) Increase the estimate for Earned Revenue by \$22,670.**
 - (3) Increase the appropriation to the Department of Transportation for the 10th and 11th Street Lane Reduction project (PSM #413, Amendment 1) in the amount of \$192,126.**
 - (4) Establish an appropriation to the Department of Transportation for the Coleman/Autumn Transportation Infrastructure Design project (PSM #453) in the amount of \$150,000.**
 - (5) Establish an appropriation to the Department of Transportation for the Traffic Calming Improvements project (PSM #458) in the amount of \$39,000.**
 - (6) Establish an appropriation to the City Manager's Office for the Center for Performing Arts Fountain Lighting Improvement project (PSM #460) in the amount of \$22,670.**
- (b) Adoption of resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with:**
- (1) The Coleman/Autumn Transportation Infrastructure Design project as more specifically described in the memorandum from the Redevelopment Agency, dated July 19, 2006, attached hereto,**
 - (2) The Traffic Calming Improvements project as more specifically described in the memorandum from the Redevelopment Agency, dated June 6, 2006, attached hereto,**
 - (3) The Center for Performing Arts Fountain Lighting Improvement project as more specifically described in the memorandum from the Redevelopment Agency, dated June 15, 2006.**

CEQA: See Administration's memorandum to Council for specific CEQA clearance determinations on each recommended action. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated July 19, 2006, recommending adoption of appropriation ordinance and funding sources resolution amendments.

2.4 (Cont'd.)

Action: [Ordinance No. 27822](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for Various Department of Transportation Improvement Projects; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 73326](#), entitled: Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund”; [Resolution No. 73327](#), entitled: “A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Merged Area Redevelopment Project Area”; [Resolution No. 73328](#), entitled: “A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in Strong Neighborhoods Initiative Redevelopment Project Area”, and [Resolution No. 73329](#), entitled: “A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Merged Area Impact Redevelopment Project Area”, were adopted. (11-0.)

2.5 **Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #3 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration’s memorandum to Council for specific CEQA clearance determinations on each recommended action. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated July 19, 2006, recommending approval of the open purchase orders.

Action: The award of the open purchase orders was approved. (11-0.)

2.6 **Recommendation: Adoption of a resolution authorizing the Director of Finance to execute an amendment of the agreement with Medtronic Incorporated for the maintenance and support of existing Lifepak 12 and Lifepak 500 Cardiac Monitors (defibrillators) increasing total compensation by \$14,391 from \$170,256 to a not to exceed amount of \$184,647. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated July 19, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73330](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Amendment to the Agreement with Medtronic Incorporated for Maintenance and Support of Cardiac Monitors”, was adopted. (11-0.)

2.7 Acceptance of the report on contract actions taken by the Director of Finance during Council recess. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated July 19, 2006, recommending acceptance of the report.

Action: The report was accepted. (11-0.)

2.8 Adoption of a resolution establishing the FY 2006-07 property tax levy on all taxable property for general obligation bonded indebtedness. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated July 19, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73331](#), entitled: "A Resolution of the Council of the City of San José Establishing the Fiscal Year 2006-2007 Property Tax Levy for the City's General Obligation Bond Indebtedness", was adopted. (11-0.)

- 2.9 (a) Create the following job classification:**
 (1) Public Communications Manager (1675)
- (b) Change the title of the following classification:**
 (1) Director of Employee Services U (1429) to Director of Human Resources U (1429)
- (c) Delete various job classifications as specified below:**
 (1) Airport Noise Specialist (5242)
 (2) Archivist (6326)
 (3) Assistant Police Communications Manager (8516)
 (4) Communications Systems Manager (8523)
 (5) Computer Operator I (1331)
 (6) Computer Operator I PT (1332)
 (7) Computer Operator II (1333)
 (8) Computer Operator II PT (1334)
 (9) Deputy Director Code Enforcement (4135)
 (10) Deputy Director Convention, Arts and Entertainment (6345)
 (11) Deputy Director Convention, Arts and Entertainment U (6346)
 (12) Deputy Director Finance, Accounting (1254)
 (13) Deputy Director Human Resources (1439)
 (14) Deputy Director Planning U (4134)
 (15) Deputy Fire Chief (2332)
 (16) Enterprise Network Engineer (1388)
 (17) Enterprise Network Engineer PT (1389)
 (18) Enterprise Network Technician I (1396)
 (19) Enterprise Network Technician I PT (1397)
 (20) Enterprise Network Technician II (1398)
 (21) Enterprise Network Technician II PT (1399)

CEQA: Not a Project. (Human Resources)

2.9 (Cont'd.)

Documents Filed: Memorandum from Director Human Resources Mark Danaj, dated July 19, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73332](#), entitled: "A Resolution of the Council of the City of San José Approving Amendments to the City Pay Plan for Various Job Classifications", was adopted. (11-0.)

2.10 **Approval of nominations to the San José Silicon Valley Workforce Investment Network Board. (Mayor)** **(Rules-in-Lieu referral 7/26/06)**

Documents Filed: Memorandum from Mayor Gonzales, dated July 31, 2006, recommending approval of the nominations.

Action: The nominations were approved. (11-0.)

2.11 **Adoption of a resolution initiating proceedings and setting August 22, 2006, at 1:30 p.m. for Council consideration of the reorganization of territory designated as Story No. 55 which involves the annexation to the City of San José of 1.33 acres of land more or less, located at the west side of South White Road, approximately 300 feet north of Story Road and adjacent to the City of San José annexations Capitol No. 5 and Hillview No.11 and the detachment of the same from County Lighting Service, Central Fire Protection, Area No. 01 (Library Service) County Service and County Sanitation 2-3 Districts. CEQA: Resolution No. 65459, C04-108. Council District 5. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated July 19, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73333](#), entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Story No. 55 Described Herein and Setting the Date, Time and Place for Consideration of Such Reorganization", was adopted. (11-0.)

2.12 **Adoption of a resolution initiating proceedings and setting August 22, 2006, at 1:30 p.m. for Council consideration of the reorganization of territory designated as McKee No. 131 which involves the annexation to the City of San José of 2.10 acres of land more or less, located at the northeast corner of North Capitol Avenue and Grandview Drive and adjacent to the City of San José annexation McKee Nos. 97, 55-A, 9 and 129 and the detachment of the same from Central Fire Protection, and Area No. 01 (Library Service) County Service Districts. CEQA: Mitigated Negative Declaration, File No. PDC05-064. Council District 4. (Planning, Building and Code Enforcement)**

2.12 (Cont'd.)

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated July 19, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73334](#), entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as McKee No. 131 Described Herein and Setting the Date, Time and Place for Consideration of Such Reorganization" adopted. (11-0.)

2.13 **Adoption of a resolution of intention to conditionally vacate McKinley Avenue between St. Elizabeth Drive and Meridian Avenue with reservation of a public service easement, emergency access easement, and sanitary sewer easement over a portion of the vacated area, and setting a public hearing on August 29, 2006 at 1:30 p.m. CEQA: Mitigated Negative Declaration, PDC05-046/C05-102. Council District 6. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated July 19, 2006, recommending adoption of a resolution. (2) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated July 28, 2006, transmitting the Planning Commission recommendation.

Action: [Resolution No. 73335](#), entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Conditionally Vacate a Portion of McKinley Avenue between St. Elizabeth Drive and Meridian Avenue", was adopted. (11-0.)

2.14 **Approval of a continuation agreement with Intergraph Corporation for Geographic Information System consultant services for the Data Modeling Enhancement, Data Conversion, Map Book Generation and Web Plot Development Project, extending the term of the agreement six months from June 30, 2006 to December 31, 2006 at no additional cost to the City. CEQA: Not a Project. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated July 19, 2006, recommending approval of the second amendment to the agreement. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated August 3, 2006, transmitting additional information.

Action: The continuation agreement was approved. (11-0.)

- 2.15 (a) **Approval of report on bids and award of contract for the Plata Arroyo Park Restroom Project to the low bidder, ESR Construction, to include the base bid in the amount of \$294,000 and approval of a contingency in the amount of \$30,000.**
- (b) **Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):**
- (1) **Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Plata Arroyo Park Restroom Project by \$65,000; and**
- (2) **Decrease the Reserve: Future PDO/PIO Projects by \$65,000.**
- (c) **Adoption of the following Appropriation Ordinance and Funding Source Resolution amendments in the Services for Redevelopment Capital Projects Fund (Fund 450):**
- (1) **Increase the estimate for Beginning Fund Balance by \$200,000.**
- (2) **Establish an appropriation to the Department of Public Works for the Plata Arroyo Park Restroom project (PSM #452) in the amount of \$200,000.**
- (d) **Adoption of resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Plata Arroyo Park Restroom project as more specifically described in the memorandum from the Redevelopment Agency, dated May 15, 2006.**

CEQA: Exempt, PP03-08-251. Council District 5. SNI Area: Gateway East. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Larry Lisenbee, dated July 19, 2006, recommending award of the contract, adoption of annual appropriation ordinance and funding sources resolution amendments and resolutions.

Action: The award of the contract was approved, [Ordinance No. 27823](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Subdivision Park Trust Fund for the Plata Arroyo Park Restroom Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Ordinance No. 27824](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Plata Arroyo Park Restroom Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" [Resolution No. 73336](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", and [Resolution No. 73337](#), entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Gateway East Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. (11-0.)

- 2.16 Approval of the second amendment to the master agreement for consultant services with Portico, Inc., for the Happy Hollow Park & Zoo Parks Bond Project increasing the compensation by \$250,000 from \$7,500,000 for a total agreement amount not to exceed \$7,750,000. CEQA: Not a Project. (Public Works/Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated July 19, 2006, recommending approval of the second amendment.

Action: The second amendment to the master agreement was approved. (11-0.)

- 2.17 Adoption of a resolution setting forth the Schedule of Parking Penalties and Late Payment Penalties for parking violations effective August 8, 2006, and repealing Resolution No. 72744. CEQA: Not a Project. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated July 19, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73338](#), entitled: “A Resolution of the Council of the City of San José Setting Forth the Schedule of Parking Penalties and Late Payment Penalties for Parking Violations and Repealing Resolution No. 72744, Effective August 8, 2006”, was adopted. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.2 Report of the Rules Committee – August 2, 2006
Vice Mayor Chavez, Chair**

Documents Filed: The Rules Committee Report dated August 2, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review August 15, 2006 Draft City Council Agenda
 - (a) Adds to the August 15, 2006 Draft City Council Agenda

The Committee recommended approval of the August 15, 2006 Draft City Council Agenda with two additions.

- (2) Add New Items to August 8, 2006 City Council Agenda
 - (a) Mayor and Councilmember Requests
 - (b) Council Appointee Requests

The Committee recommended approval of the August 8, 2006 City Council Agenda with two additions.

3.2 Report of the Rules Committee – August 2, 2006 (Cont'd.)
Vice Mayor Chavez, Chair

- (b) City Council (Cont'd.)
 - (3) List of Reports Outstanding - There were none.
- (c) Legislative Update
 - (1) State
 - (a) SB423 (Simitian) – Allowing energy service providers to gift energy to nonprofits. Attachment: (1) Memorandum from Director of Housing Leslye Krutko, dated July 26, 2006, recommending support for SB423. (2) Supplemental memorandum from Director Intergovernmental Relations Betsy Shotwell, dated August 4, 2006, transmitting additional information.

The Committee recommended approval of the report and to bring it forward to the Council on August 8, 2006.

- (2) Federal - There was no report.
- (d) Meeting Schedules
 - (1) Approve to reschedule the previously set study session on the Recycle Plus Program Procurement from August 4, 2006 to August 11, 2006 from 9:00 a.m. – 12:00 p.m. in the Council Chambers. Attachment: Memorandum from Chief of Staff Deanna J. Santana, dated July 26, 2006, recommending approval of the schedule.
 - (2) Approve the General Plan Hearing Schedule and cancellation of the November 7, 2006 Council Meeting. Attachment: Memorandum from Assistant to the City Manager Nadine Nader, dated July 26, 2006, recommending approval of the schedule.

The Committee recommended approval of the schedule.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated July 25, 2006, transmitting items for Public Record and Administration for the period of June 14-July 25, 2006.

The Committee noted and filed the Public Record and referred the ACLU's request to the August 9, 2006 Rules Committee, including a response from the Police Chief Robert Davis.

3.2 Report of the Rules Committee – August 2, 2006 (Cont'd.)
Vice Mayor Chavez, Chair

(f) Appointments to Boards, Commissions and Committees

(1) Disability Advisory Commission (LeZotte).

Recommend Susan Veronica Souza and Otila Salazar to two (2) unexpired terms ending 06/30/07 and 06/30/08. Attachment: Memorandum from Council Member LeZotte, dated June 28, 2006, recommending the above applicants.

The Committee recommended approval.

(2) Youth Commission (City Clerk)

Acceptance of applications for Council Districts 1, 2, 4, 5, 6, and 7 extended from July 28, 2006 to September 1, 2006. Attachment: Memorandum from City Clerk Lee Price, dated July 25, 2006, recommending acceptance of applications.

The Committee recommended approval.

(g) Rules Committee Reviews, Recommendations and Approvals

(1) Approval of travel for Council Member Yeager to attend the League of California Cities 2006 Annual Conference and Exposition in San Diego, California on September 6-9, 2006 (Yeager)

(2) Approval of travel for Council Member Yeager to attend the International Gay and Lesbian Leadership Conference in Houston, Texas on November 16 – 19, 2006 (Yeager). Attachment: Memoranda from Council Member Yeager, dated July 17, and July 24, 2006, requesting approval of travel.

The Committee recommended approval of the travel requests.

(3) Recommendation to agendize the San Jose Entrepreneur Center Program Evaluation Report for review by the Driving a Strong Economy Committee at their next meeting scheduled on September 25, 2006 (RDA). Attachment: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes, dated June 30, 2006 transmitting the report.

The Committee recommended approval.

(4) Request for “Audit of Consolidated Water Utility Operating Fund” to be added to the City Auditor’s Work Plan (Cortese). Attachment: Memorandum from Council Member Cortese, dated June 20, 2006, recommending request to the City Auditor’s work plan.

The Committee recommended approval.

**3.2 Report of the Rules Committee – August 2, 2006 (Cont'd.)
Vice Mayor Chavez, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
 - (5) Approval of Council Committee Work Plans (Mayor/Committee Chairs)
 - (a) All Children Achieve Committee
(Deferred from 6-21-06)
 - (b) Building Strong Neighborhoods Committee
(Deferred from 6-21-06)

Deferred to August 9, 2006 Rules Committee.

- (6) 2006 League of California Cities voting and alternate voting delegates for the annual business meeting (City Manager). Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated July 27, 2006, recommending approval of Council Member Campos as the voting delegate and Council Member Chirco as the alternate.

The Committee recommended approval.

- (h) Open Forum - There were none.
- (i) Adjournment - The meeting was adjourned at 3:40 p.m.

Public Comment: Sam Liccardo spoke in support of SB423.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams and carried unanimously, the Rules Committee Report and the Actions of August 2, 2006, were accepted. (11-0.)

3.4 Approval of an ordinance amending Title 12 of the San José Municipal Code to add Chapter 12.18 to specify the grounds and procedures for removal of a member of the City Council for willful misconduct in office. CEQA: Not a Project. (City Attorney's Office)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated July 28, 2006, recommending consideration of a proposed ordinance.

City Attorney Richard Doyle presented an overview of the grounds and procedures for removal of a member of the City Council for willful misconduct in office. Considerable questions from the Council followed.

Public Comment: Kevin Kittalo objected to the proposal and urged the Mayor to resign. Stephen Hazel stated the Charter already gives the Council the power it needs to remove the Mayor. Ross Signorino proposed a financial penalty for a serious offense. Robert Apgar and Mark Trout spoke off topic.

Significant Council discussion ensued.

3.4 (Cont'd.)

Mayor Gonzales declared he would not support the ordinance because it takes away the rights of the voters.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried, the City Attorney was directed to return at the end of August 2006 with modifications to the draft ordinance, including: (1) Amend the purpose and definition of “misconduct in office” to emphasize that willful misconduct must be “serious”. (2) A provision requiring a 3/4 majority vote of the Council to remove from office a member of Council for serious willful misconduct. (3) Make the appointment by the Mayor (or Vice Mayor) of an investigation committee subject to the approval of the Council. (4) Clearly indicate what Council has for legal counsel options. (5) A timeline for a removal hearing, including when Council votes are required and flexibility for deferrals. (6) Language that specifies that removal is a tool of last resort. (7) More clarity about the makeup of an investigation committee, including benchmarks to determine conflicts of interest. Noes: Gonzales.

3.5 **Adoption of a resolution declaring the results of the June 6, 2006 Municipal Election pursuant to Elections Code Section 15400. The resolution will certify the results of the election, confirm the passage of Measure K (Fire Station Construction – Silver Creek Park) and confirm the election of Peter Constant to the Office of Council Member – District 1; Nora Campos to the Office of Council Member – District 5; Madison P. Nguyen to the Office of Council Member – District 7 and Judy Chirco to the Office of Council Member – District 9, all for terms beginning on January 1, 2007 and ending on December 31, 2010; and requesting the County Board of Supervisors to consolidate with the Statewide General Election a Municipal Run-off Election for the Offices of Mayor and Council Member – District 3. (City Clerk)**

Documents Filed: Memorandum from City Clerk Lee Price, dated August 4 2006, recommending adoption of a resolution.

Public Comment: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73339](#), entitled: “A Resolution of the Council of the City of San José Reciting that a General Election was Held in the City of San José on Tuesday, June 6, 2006 Which Was Consolidated with the State Primary Election on that Date; Finding and Declaring that the Following were Elected to the Office of Member, City Council – Pete Constant, District 1, Nora Campos, District 5, Madison P. Nguyen, District 7 and Judy Chirco, District 9 for Terms Beginning on January 1, 2007, and Ending on December 31, 2010 and Requesting the Board of Supervisors to Consolidate the Municipal Run-Off Election with the State General Election and to Permit the County Registrar of Voters to Render Certain Services to the City of San José Relating to the Conduct of Said Election; Establishing Fees for Candidate Statements and Delegating to the City Clerk the Authority to Take Other Actions with Regard to the Election”, was adopted. (11-0.)

- 3.6 (a) Adoption of the following Appropriation Ordinance amendments in the General Fund:**
- (1) Establish an appropriation for the Office of the Mayor Personal Services in the amount of \$563,739;**
 - (2) Establish an appropriation for the Office of the Mayor Non-Personal/ Equipment in the amount of \$12,477;**
 - (3) Establish an appropriation for the Office of the Mayor Independent Consultant in the amount of \$48,000;**
 - (4) Establish an appropriation in Citywide to the City Clerk's Office for the San José Education Foundation in the amount of \$200,000;**
 - (5) Establish an Earmarked Reserve for the 2007 Office of the Mayor in the amount of \$117,119;**
 - (6) Decrease the appropriation to the Mayor and City Council for the Office of the Mayor by \$941,335.**
- (b) Implement a hiring freeze for the Mayor's Office staff until December 31, 2006.**
- (c) Adoption of a resolution approving an amendment to City Council Policy 9-5 regarding the Mayor's travel.**

CEQA: Not a Project. (City Manager's Office/City Attorney/City Clerk)

Documents Filed: Memorandum from City Clerk Lee Price, City Attorney Richard Doyle and Budget Director Larry Lisenbee, dated July 27, 2006, recommending adoption of appropriation ordinance amendments, hiring freeze and approval of an amendment to the Mayor and Council Travel Policy.

Budget Director Larry Lisenbee outlined the issues of the fiscal actions related to the Mayor and City Council General Fund appropriations.

Vice Mayor Chavez moved approval of the staff recommendations. Council Member Cortese seconded the motion.

Budget Director Lisenbee responded to Council questions and comments. Discussion ensued. Mayor Gonzales protested the proposed actions because they violate his responsibilities as Mayor, under the Charter. Council Member LeZotte expressed opposition to allowing any raises for Staff in the Mayor's Office.

Action: On a call for the question, the motion carried, [Ordinance No. 27825](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the General Fund for the Budget Amendments for the Mayor's Office; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 73340](#), entitled: "A Resolution of the Council of the City of San José Approving an Amendment to City Council Policy No. 9-5, Travel by Elected and Appointed City Officials", were adopted. Additional clarification provided: (1) No new hires authorized; remove from the budget allocations upon separation from the Mayor's Office. (2) Cap at \$17,000 merit increases for the Mayor's Office Staff. (9-2. Noes: LeZotte; Gonzales.)

- 3.7 Conduct a public hearing and adopt a resolution approving the Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges Report filed by the Director of Finance with the City Clerk's Office and approve the placement of recommended Sanitary Sewer and Use charges and Storm Sewer Service charges on the 2006/2007 tax roll, with such modifications as Council may make based on public hearing testimony. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated July 19, 2006, recommending adoption of a resolution.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, [Resolution No. 73341](#), entitled: "A Resolution of the Council of the City of San José Approving the Annual Report for Fiscal Year 2006-2007 of the Director of Finance on Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges as Set Forth Therein on the 2006-2007 Tax Roll", was adopted. (11-0.)

- 3.8 (a) Approve the proposed specific language revisions to the City Charter related to outside employment for the Mayor, Council Members and Council salary setting for placement on the November 7, 2006 ballot.**
- (b) Adopt a resolution approving ballot language for the proposed Charter amendments related to outside employment for the Mayor and City Council Members and Council salary setting and ordering placement on the November 7, 2006 ballot.**
- (c) Direct the City Attorney to bring back to Council within thirty days of the passage of the proposed Charter amendment, amendments to the Municipal Code making Council staff subject to similar employment restrictions as other City employees, requiring them to receive written permission from their Council Member to accept outside employment.**

(Mayor)

(Referred from 6/20/06 – Item 3.7)

Documents Filed: (1) Memorandum from Mayor Gonzales, dated August 2, 2006, recommending items (a)-(c) above. (2) Memorandum from Vice Mayor Chavez and Council Members Yeager and Cortese, dated August 4, 2006, recommending deferring consideration of proposed City Charter amendments and providing direction to the City Attorney's Office. (3) Memorandum from City Attorney Richard Doyle, dated August 1, 2006, outlining the ballot measure proposal to amend Charter Section 407. (4) Letter from Scarlett Li Lam, Member of the Council Salary Setting Commission, dated August 8, 2006, summarizing suggestions for revisions.

Mayor Gonzales spoke to the merits of his recommendations for Charter changes outlined in his memorandum. Council Member Yeager proposed that it was not the time to change the Charter and made the following motion.

3.8 (Cont'd.)

Motion: Council Member Yeager moved approval of the memorandum, dated August 4, 2006, he cosigned with Vice Mayor Chavez and Council Member Cortese, recommending alternative actions including the development of an outside income disclosure statement to be filed by each member of the City Council. Council Member Cortese seconded the motion.

City Attorney Richard Doyle requested he be given until August 22, 2006 to return to Council with the amendments.

Council Member Campos suggested a monthly reporting of outside income.

City Attorney Richard Doyle responded to questions and comments from the Council Members.

Substitute Motion: Council Member LeZotte moved to defer this discussion, except for the issue of Council salaries, to the next Administration in January 2007. Council Member Nguyen seconded the motion. Council Members Chirco, Reed and Pyle expressed support for the substitute motion.

Public Comment: Speaking in opposition to requiring the disclosure of outside income were Ross Signorino, Bob Hines (San José Silicon Valley Chamber of Commerce), William Garbett, Pete Constant, Pierlvigi Oliverio and Michael Mulcahy. Scarlett Li Lam, Member of the Council Salary Setting Commission, summarized suggestions put forward in her memorandum to the Council.

On a call for the question on the substitute motion; the motion failed. (4-7.Noes: Campos, Chavez, Cortese, Nguyen, Williams, Yeager; Gonzales.)

Action: On a call for the question, the original motion carried; no Resolution adopted. The joint memorandum from Council Members Yeager and Cortese, and Vice Mayor Chavez, dated August 4, 2006, was approved, including: (1) Defer consideration of proposed City Charter amendments relating to restrictions on outside employment and Council Member salary setting to be included as part of a broader future review of the City Charter. (2) Direct the City Attorney's Office to prepare amendments to Title 12 (Ethics Provisions) of the San José Municipal Code to require Council Members to regularly disclose any outside compensatory activities and the nature of such activities and to bring these amendments back for Council consideration on August 22, 2006. (6-5. Noes: Chirco, LeZotte, Nguyen, Pyle, Reed.)

3.9 Discussion of the San José Arena contract as related to a potential National Basketball Association franchise. (Mayor)
(Rules-in-Lieu referral 7/26/06)

Documents Filed: (1) Memorandum from Mayor Gonzales, dated August 3, 2006, regarding the San José Arena Contract and NBA. (2) Memorandum from Deputy City Manager Dan McFadden, dated July 25, 2006, transmitting the report.

Interim Deputy City Manager Dan McFadden presented an outline of the San José Arena Contract related to a National Basketball Association Franchise.

Public Comment: Ross Signorino spoke in favor and Kevin Kittalo spoke in opposition.

Action: No Council Action required. Staff directed to return to Council in a couple of weeks for further discussion.

3.10 Restore \$15,000 to the non-personal funding of the Mayor's Office budget in order to continue the regular support for the seventh Annual Mayor's Volunteer Celebration that recognizes and thanks the thousands of San José residents who contribute their time and talent as City volunteers.
(Rules Committee referral 8/2/06)

Documents Filed: Memorandum from Mayor Gonzales, dated August 2, 2006, requesting funding for the Annual Volunteer Celebration.

Public Comment: William Garbett spoke in opposition to the recommendation.

Action: Upon motion by Council Member Yeager, seconded by Council Member Pyle and carried unanimously, the funding was approved. (10-0-1. Absent: Cortese.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee – June 19, 2006
Council Member Chirco, Chair

Documents Filed: The Building Strong Neighborhoods Committee Report dated June 19, 2006.

- (a) Neighborhood Housing Rehabilitation Presentation. Attachment: Memorandum from Director of Housing Leslye Krutko, dated June 6, 2006, regarding the slide presentation.

The Committee accepted the report.

4.1 Report of the Building Strong Neighborhoods Committee – June 19, 2006 (Cont'd.) Council Member Chirco, Chair

- (b) Secondary Units Pilot Program Status. Attachment: Memorandum from Director of Housing Leslye Krutko and Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated June 8, 2006, recommending acceptance of the report.

The Committee accepted the report.

- (c) Animal Care and Services Update. Attachment: (1) Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated June 9, 2006, transmitting the report. (2) Letter from Carl Schroeder, dated June 27, 2006, regarding the exemption to the ban of the sales of live animals outdoors.

The Committee accepted the report.

- (d) Parkland Dedication Ordinance and Park Impact Ordinance – Follow-up Discussion

Deferred to August 2006.

- (e) Building Strong Neighborhoods Update/Status Report

The Committee accepted the report.

- (f) Oral Petitions - There were none.

- (g) Adjournment - The meeting was adjourned at 2:54 p.m.

Deputy Director Animal Care and Services Jon Cicirelli responded to Council questions about the Animal Care and Services Update [4.1(c)]. Brief discussion ensued regarding community outreach and the Animal Advisory Committee (a group of animal care professionals who advise PRNS). It was suggested that this Committee should be subject to the Brown Act. Deputy Director Cicirelli noted for the record that he has not denied access to the meetings.

Public Comment: Christian Hemingway, Carl Schroeder and Kathleen Flynn spoke in opposition to the sale of live animals outdoors, Item 4.1(c), and argued that meetings of the Animal Advisory Committee have not been open to the public.

Action: Upon motion by Council Member Chirco, seconded by Vice Mayor Chavez and carried unanimously, the Building Strong Neighborhoods Committee Report and the actions of June 19, 2006, were accepted. (11-0.)

4.2 Report of the Driving a Strong Economy Committee - June 26, 2006 Council Member Williams, Chair

Documents Filed: Driving a Strong Economy Committee Report dated June 26, 2006.

- (a) Affordable Housing Funding and Production Update 2006 (Report attached)

The Committee accepted the report.

- (b) Housing Indicators Report. Attachment: Memorandum from Director of Housing Leslye Krutko, dated June 9, 2006, transmitting the report.

The Committee accepted the report.

- (c) Secondary Units Mid-Year Report. Attachment: Memorandum from Director of Housing Leslye Krutko and Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated June 9, 2006, transmitting the report.

The Committee accepted the report.

- (d) Update on Airport and Office of Economic Development to Secure Additional Flights. Attachment: Memorandum from Director of Aviation William Sherry and Director of Economic Development Paul Krutko, dated June 10, 2006, transmitting the report.

The Committee accepted the report.

- (e) Update on the Small Business Ambassador Program

Deferred to September 25, 2006 Committee Meeting.

- (f) Oral Petitions

Bill Chew commented on his television interview with Council Member Williams.

- (g) Adjournment - The meeting was adjourned at 2:39 p.m.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez and carried unanimously, the Driving a Strong Economy Committee Report and the actions of June 26, 2006, were accepted. (11-0.)

4.3 Acceptance of the proposed phasing plan for the annexation of up to 58 unincorporated islands of less than 150-acres in three general phases over the next 3 to 5 years, beginning with the smallest and least populated areas. CEQA: Resolution No. 65459. (Planning, Building and Code Enforcement).

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated July 19, 2006, recommending acceptance of the phasing plan.

Public Comment: Richard Popejoy stated he is a County-pocket resident and asked the Council to consider annexing smaller pockets as a test case.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos and carried unanimously the proposed phasing plan was accepted. (11-0.)

4.4 The project being considered is located at the southwest corner of Tully Road and Capitol Expressway (General Growth Properties, LLC, Owner/Rayjer Properties, Applicant). Council District 8. CEQA: Mitigated Negative Declaration.

(a) **Adoption of a resolution overriding a determination by the Santa Clara County Airport Land Use Commission that conforming rezoning File No. C05-125, is inconsistent with the land use plan for areas surrounding Santa Clara County Airports.**

(b) **Consideration of a conforming rezoning ordinance rezoning a portion of the subject property from A-Agricultural Zoning District to IP-Industrial Park Zoning District and another portion of the subject property to CG-Commercial General Zoning District to allow industrial and commercial uses, respectively, on certain portions of a 7.0 gross acres site.**

C05-125 - District 8

[Deferred from 6/20/06 – Item 10.6(b)(c) and Item 11.12(b)(c)]

Documents Filed: (1) Memorandum from Council Member Cortese, dated August 8, 2006, recommending approval of staff recommendations with further direction. (2) Staff report dated May 17, 2006. (3) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated May 30, 2006, transmitting the Planning Commission recommendation. (4) Supplemental memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated July 27, 2006, transmitting additional information. (5) Letter from Aircraft Owners and Pilots Association, dated August 8, 2006, expressing opposition to the rezoning.

Public Comment: Speaking in opposition to overriding the decision of the Airport Land Use Commission were: Robert Sturtevant, Ralph Britton (Airport Land Use Commission, Frank and Sharon Sweeney, Ron Blake, Mark Kadrich, William Carey (Reid Hillview Airport Association), Russell Wells and Sandra Clifford (Women in Aviation).

4.4 (Cont'd.)

Speaking in support to the rezoning were: Alofa Talivaa and Ted Johnson (East Valley/680 NAC), John Petersen (General Growth Properties), Raymond Beshoff (Applicant) and Bob Hines (San José Silicon Valley Chamber of Commerce).

Council Member Cortese moved approval of his memorandum dated August 8, 2006, recommending approval of the Staff recommendation with further direction for Staff to work with the applicant: (1) At the site development/conditional use permit stage to design car storage parking that creates vertical aisles. (2) At the site development/conditional use permit stage to minimize landscaping and the use of break away lighting. (3) To ensure that no development occurs with the FAA flight plan unless compliant with FAA regulations. Council Member Campos seconded the motion.

Council Members Reed, LeZotte and Pyle expressed concerns for safety and compatibility. Council Member Chirco expressed concerns about lighting.

Action: On a call for the question, the motion failed; Resolution was not adopted and the Ordinance was not approved. (4-7. Noes: Chirco, Lezotte, Nguyen, Pyle, Reed, Yeager; Gonzales.)

4.5 **Conduct a public hearing and adoption of a resolution to vacate portions of a Public Service Easement and Covenant of Easement for ingress, egress, emergency access and incidental purposes within Lot 1 of Tract 9665 at the northwest corner of Bassett and North First Streets. CEQA: Resolution No. 68839. Council District 3. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated July 19, 2006, recommending adoption of a resolution. (2) Proofs of Publications of Notices of Public Hearings, executed on July 12 and July 19, 2006, submitted by the City Clerk.

Mayor Gonzales reported he lives near the subject property and abstained from voting.

Action: Upon motion by Council Member Cortese, seconded by Council Member Pyle, and carried unanimously, [Resolution No. 73342](#), entitled: "A Resolution of the Council of the City of San José Vacating Portions of a Public Service Easement and Covenant of Easement within Lot 1 of Tract 9665 at the Northwest Corner of Bassett and North First Streets", was adopted. (9-0-1-1. Disqualified: Gonzales. Absent: LeZotte.)

- 4.6 Conduct a public hearing and adoption of a resolution to vacate the easterly portion of Ninth Street between Taylor and Jackson Streets with reservation of a 6-foot strip public service easement. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (7-0-0). CEQA: Mitigated Negative Declaration, PDC05-037. Council District 2. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated July 19, 2006, recommending adoption of a resolution. (2) Proofs of Publications of Notices of Public Hearings, executed on July 12, 2006 and July 19, 2006, submitted by the City Clerk.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager [Resolution No. 73343](#), entitled: "A Resolution of the Council of the City of San José Vacating a Portion of Ninth Street, between Taylor and Jackson Streets and Reserving a Public Service Easement", was adopted. (10-0-1. Absent: LeZotte.)

- 4.7 Conduct a public hearing and adoption of two resolutions to:**
- (a) Vacate a portion of Park Avenue, located along the northerly side and approximately 55 feet east of Laurel Grove Lane.**
 - (b) (1) Declare this 2,482 square foot area surplus to the needs of the City.**
 - (2) Authorize its sale to Park Avenue Lofts, LLC for \$69,496.**
 - (3) Delegate authority to the Director of Public Works to execute all documents necessary to complete the transfer of the property.**

CEQA: Mitigated Negative Declaration, PDC05-037. Council District 6. (Public Works)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated July 19, 2006, recommending adoption of resolutions. (2) Proofs of Publications of Notices of Public Hearings, executed on July 12 and July 19, 2006, submitted by the City Clerk.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez and carried unanimously, [Resolution No. 73344](#), entitled: "A Resolution of the Council of the City of San José Vacating a Portion of Park Avenue, Located 55 Feet East of Laurel Grove Lane, and Reserving a Public Service Easement" and [Resolution No. 73345](#), entitled: "A Resolution of the Council of the City of San José Declaring Certain City Owned Property Surplus and Authorizing the Director of Public Works to Execute an Agreement to Sell and All Necessary Documents for the Transfer of Such Proeprty to the Adjacent Property Owner, Park Avenue Loft, LLL", were adopted. (10-0-1. Absent: LeZotte.)

NEIGHBORHOOD SERVICES

- 5.2 Adoption of a resolution approving additional funding of up to \$4,271,125 to Sunset Square, L.P. for the rehabilitation and financial restructuring of Sunset Square Apartments, a 96-unit apartment building located at 2080 Alum Rock Avenue in San José. CEQA: Exempt, File No. AD06-696. Council District 5. (Housing)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated July 19, 2006, recommending adoption of a resolution.

Action: Upon motion by Council Member Campos, seconded by Vice Mayor Chavez and carried unanimously, [Resolution No. 73346](#), entitled: “A Resolution of the Council of the City of San José Approving Additional Funding of up to \$4,271,125 to Sunset Square, L.P. for the Rehabilitation and Financial Restructuring of Sunset Square Apartments, a 96 Unit Apartment Building Located at 2080 Alum Rock Avenue in San José”, was adopted. (10-0-1. Absent: LeZotte.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

- 9.1 Adoption of a resolution by City Council making an exception to the current Council Appointee Home Loan Program to allow the participation by an existing employee within their first two years of service, and specifically granting approval of a loan consistent with the program guidelines to the current Executive Director of the Redevelopment Agency. (Redevelopment Agency)**

Documents Filed: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes, dated July 27, 2006, recommending adoption of a resolution.

Mayor Gonzales noted he would not be supporting the recommendation because he believes the home loan program is a recruitment tool and not intended for retention.

Action: Upon motion by Council Member Williams, seconded by Council Member Reed and carried, [Resolution No. 73347](#), entitled: “A Resolution of the Council of the City of San José Making an Exception to the Current Council Appointee Home Loan Program to Allow the Participation by an Existing Employee and Specifically Granting the Approval of a Loan to the Current Executive Director of the Redevelopment Agency”, was adopted. (9-1-1. Noes: Gonzales. Absent: LeZotte.)

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session action(s) of August 8, 2006:

A. Authority to Initiate Litigation:

Authority to initiate litigation was given in one (1) matter. The name of the action and the defendant(s), as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action is formally commenced.

Council Vote: Ayes: Campos, Chavez Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Noes: None.
Disqualified: None.
Absent: None.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9828	N/S of Villa Ave. 150' E of Myrtle St.	6	LG Developers	5 Lots/4 Units	SFD
9835	NE corner of Samaritan Dr. and Clydelle Ave.	9	SummerHill Home	108 Lots/ 101 Units	Single & Multi Family
9836	2478 Almaden Road	6	JSM Enterprises Inc.	1 Lot/32 Units	MFA

NOTICE OF CITY ENGINEER'S AWARD OF CONSTRUCTION PROJECTS

On October 25, 2005, City Council approved a one year pilot program that delegated authority to the Director of Public Works to award or reject bids on construction projects where the base contract amount is below \$1,000,000. In accordance with this policy, the following is a list of projects that were awarded or rejected by the Director of Public Works in June and July 2006.

NOTICE OF CITY ENGINEER'S AWARD OF CONSTRUCTION PROJECTS (Cont'd.)

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Orvis Ave. Sanitary Sewer Replacement	3	Pacific Underground Construction Inc.	\$359,495	6/1/06
Dobern Bridge Trail	5	Blossom Valley Construction	\$184,518	6/1/06
Greater Gardner Street Reconstruction-W. Virginia Street	3	Wattis Construction Co.	\$194,499	6/10/06
Norman Y. Mineta San José Airport Gen. Eng. Contract 06-07	Citywide	O'Grady Paving	\$510,000	6/23/06
Traffic Signal Modification at Naglee and Park Aves.	6	San José Signal Electric Const. Inc.	\$198,370	6/23/06
Traffic Signal Installations at Almaden Ave., Oak and Vine Streets	3	Pacific Electric Company	\$279,377	7/19/06

OPEN FORUM

- (1) Kevin Kittalo complained about the San José Grand Prix.
- (2) Mark Trout presented religious points of view.
- (3) Robert Apgar voiced personal observations.

ADJOURNMENT

The Council of the City of San José was adjourned at 7:07 p.m. in memory of former City Clerk Patricia L. O'Hearn, who faithfully served the City for 18 years.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk
smd/8/8/06MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at www.sanjoseca.gov/clerk/MeetingArchive.asp